

Appl. No. : 10/731,401  
Filed : December 9, 2003

## REMARKS

The Office Action of January 16, 2007 was based on Claims 1-31. Claims 1, 4-6, 8, 11, 15, 17-22, 25, 30, and 31 are amended herein. Claims 3 and 7 are canceled. Therefore, Claims 1, 2, 4-6, and 8-31 are pending and are presented for further consideration.

### **Rejection of Claims 1, 2, 4-6, and 8-31 for Obviousness-type Double Patenting**

The Office Action rejects Claims 1, 2, 4-6, and 8-31 on the ground of non-statutory obviousness-type double patenting as being unpatentable over Claims 1-49 of co-pending U.S. patent application 10-731,519. Applicant acknowledges the double patenting rejection and will consider submitting a terminal disclaimer when the identified claims have been allowed if the claims have not otherwise been amended to overcome the double patenting rejection.

### **Response to Rejection of Claims 1, 2, 4-6, and 8-31 Under 35 U.S.C. § 102(e)**

Claims 1, 2, 4-6, and 8-31 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,957,770 to Robinson ("Robinson"). Applicant submits, however, that Robinson does not disclose every feature of Claims 1, 2, 4-6, and 8-31.

#### **Claim 1**

Claim 1 recites (emphasis added):

An apparatus that scores risk associated with accepting a check, the apparatus comprising:

- a database that stores biometric information;
- a biometric input device; and

- a computer processor configured to obtain via the biometric input device biometric information from a check presenter desiring to cash a check, to compare the biometric information from the check presenter with stored biometric information about a payee of the presented check to determine a biometric risk score, to receive information about one or more non-biometric factors associated with the transaction, and to determine a transaction risk score associated with cashing the check based at least in part on the biometric risk score, wherein **the transaction risk score is indicative of an acceptable level of risk, even when the biometric risk score is indicative of a low level of confidence, when one or more of the plurality of non-biometric factors is sufficiently positive.**

Applicant submits that Claim 1 is not anticipated by Robinson because Robinson fails to disclose every limitation of Claim 1. For example, Robinson fails to disclose a transaction risk

score that is “indicative of an acceptable level of risk, even when [a] biometric risk score is indicative of a low level of confidence, when one or more of the plurality of non-biometric factors is sufficiently positive.” In contrast, Robinson discloses that a consumer desiring to cash a check provides a biometric to a merchant. The biometric is compared to various other biometrics that are stored within the system for potential matches. If a match to the consumer’s biometric is found then the transaction may be accepted. However, “if . . . the consumer . . . produces a negative match, the transaction will be declined.” (Robinson, col. 8, lines 15-39).

Thus, Robinson does not disclose an apparatus that determines a transaction risk score that is “indicative of an acceptable level of risk, even when [a] biometric risk score is indicative of a low level of confidence, when one or more of the plurality of non-biometric factors is sufficiently positive.” Instead, the apparatus disclosed in Robinson declines a transaction if the consumer’s biometric does not match any stored biometric regardless of other positive non-biometric factors.

For at least the reason that Robinson does not disclose every limitation of Claim 1, Applicant submits that Robinson does not anticipate Claim 1.

Claim 4

Claim 4 recites (emphasis added):

A method of scoring risk associated with accepting a check transaction, the method comprising:

obtaining biometric information from a check presenter who desires to cash a check;

accessing stored biometric data;

determining a **gradated biometric risk score** based at least in part on the biometric information from the check presenter and on the stored biometric data; and

determining a transaction risk score associated with accepting the check transaction based at least in part on the gradated biometric risk score.

Applicant submits that Claim 4 is not anticipated by Robinson because Robinson fails to disclose every limitation of Claim 4. For example, Robinson fails to disclose the act of determining a “gradated biometric risk score.” As set forth above, according to the method disclosed in Robinson, a transaction may be accepted if the consumer’s biometric matches a stored biometric. However, the transaction is declined if the consumer’s biometric does not match a stored biometric. (Robinson, col. 8, lines 15-39). Robinson merely discloses

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determining whether the consumer's biometric does or does not have a match. Thus, Robinson does not disclose the act of determining a "gradated biometric risk score," for example, that can capture varying degrees of confidence that a consumer's biometric matches a stored biometric.

For at least the reason that Robinson does not disclose every limitation of Claim 4, Applicant submits that Robinson does not anticipate Claim 4.

Claims 15, 18, 20, 22, 25, and 30

Each of Claims 15, 18, 20, 22, 25, and 30 is patentably distinguished from Robinson for reasons similar to those set forth above with respect to Claim 1 and/or Claim 4, and because of the additional features recited therein.

Claims 2, 5, 6, 8-10, 12-14, 16, 17, 19, 21, 23, 24, 26-29, and 31

Each of Claims 2, 5, 6, 8-10, 12-14, 16, 17, 19, 21, 23, 24, 26-29, and 31 depends from an independent claim and is patentably distinguished from Robinson for at least the same reasons set forth with respect to the corresponding independent claim, and because of the additional features recited therein.

**CONCLUSION**

In light of the foregoing remarks, Applicant submits that Claims 1, 2, 4-6, and 8-31 are in condition for allowance, and such action is earnestly solicited.

Respectfully submitted,

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